

REMARKS

I. Introduction

Claims 9, 10, and 12 to 16 are currently pending in the present application. Claims 9 and 10 have been amended. In view of the foregoing amendments and the following remarks, it is respectfully submitted that claims 9, 10, and 12 to 16 are allowable, and reconsideration of these claims is respectfully requested.

II. Objections to the Drawings

The drawings were objected to under 37 C.F.R. § 1.83(a). The following claim amendments are deemed to overcome the drawing objections:

Claim 9 has been amended to recite that “the second communication device connects only a front wheel-braking module of a first lateral side of the vehicle ~~is connected only~~ to a rear wheel-braking module of a second lateral side of the vehicle ~~by the second communication device~~, and the third communication device connects only a front wheel-braking module of the second lateral side of the vehicle ~~is connected only~~ to a rear wheel-braking module of the first lateral side of the vehicle ~~by the third communication device~~.”

Claim 10 has been amended to be independent, including the features of claim 9, substantially as previously presented in the Amendment submitted on April 18, 2008 in response to the Office Action of January 24, 2008.

In view of the amendments, the objections to the drawings have been obviated. No new matter has been added, and the drawings are supported by the present application. Therefore, withdrawal of these objections to the drawings is respectfully requested.

III. Rejection of Claims 9, 10, and 12 to 16 Under 35 U.S.C. § 112, First Paragraph

Claims 9, 10, and 12 to 16 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

As more fully set forth above, claims 9 and 10 have been amended to clarify the claimed subject matter, thereby obviating the present rejection to the claims. In view of the amendments, claims 9 and 10 are clearly supported by the present application. No new

matter has been added. Therefore, amended claims 9 and 10 clearly comply with the requirements under 35 U.S.C. § 112, first paragraph.

Accordingly, it is respectfully submitted that claims 9 and 10, as presented, are allowable, as are their dependent claims 12 to 16. It is therefore respectfully requested that the rejection be withdrawn.

IV. Rejection of Claims 10, 12, and 15 under 35 U.S.C. § 112, Second Paragraph

Claims 10, 12, and 15 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claim 10 has been amended to recite that “the at least one of the second communication device and the third communication device is configured identically with respect to connections to the at least four wheel-braking modules as [[to]] the first communication device.” In view of the amendments, there is no possibility of confusion regarding the phrase “configured identically” of claim 10. No new matter has been added. Therefore, amended claim 10, and its dependent claim 12, clearly comply with the requirements under 35 U.S.C. § 112, second paragraph.

Claim 15 recites “a device for determining an actuation strength of the brake actuating device.” Claim 15 finds support in the Substitute Specification, which refers to “a device 11 for determining the brake demand or a desired braking (brake demand distribution).” (Substitute Specification, page 6, lines 1 to 5; and Figures 1 and 2). Thus, contrary to the assertions of the Office Action at pages 6 and 7, the device 11 is distinct from the at least four sensors. Therefore, claim 15 clearly complies with the requirements under 35 U.S.C. § 112, second paragraph.

In view of all of the foregoing, withdrawal of this rejection is respectfully requested.

V. Rejection of Claims 9, 10, and 12 to 16 under 35 U.S.C. § 103(a)

Claims 9, 10, and 12 to 16 were rejected under 35 U.S.C. § 103(a) as unpatentable over that which the Office Action characterized as the Admitted Prior Art (APA), specifically

Figure 4, and U.S. Patent No. 3,693,114 (“Kempf”). Applicants respectfully submit that this rejection should be withdrawn, for the following reasons.

In rejecting a claim under 35 U.S.C. § 103(a), the Examiner bears the initial burden of presenting a *prima facie* case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish a *prima facie* case of obviousness, the Examiner must show, *inter alia*, that there is some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine the references, and that, when so modified or combined, the prior art teaches or suggests all of the claim limitations. M.P.E.P. §2143. In addition, as clearly indicated by the Supreme Court, it is “important to identify a reason that would have prompted a person of ordinary skill in the relevant field to [modify] the [prior art] elements” in the manner claimed. See KSR Int’l Co. v. Teleflex, Inc., 82 U.S.P.Q.2d 1385 (2007). In this regard, the Supreme Court further noted that “rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” Id., at 1396. To the extent that the Examiner may be relying on the doctrine of inherent disclosure in support of the obviousness rejection, the Examiner must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; see also Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)).

Amended independent claim 9 recites the following:

9. A decentralized electrical braking system, comprising:
 - at least four sensors for sensing an actuation of a brake actuating device;
 - at least four wheel-braking modules, each wheel-braking module being assigned to a corresponding vehicle wheel and acquiring sensor data and controlling braking of the corresponding vehicle wheel;
 - at least one first communication device connecting all four wheel-braking modules to one another for exchange of data;
 - an electrical connecting device for connecting each sensor to at least one wheel-braking module; and
 - at least one of a second communication device and a third communication device for facilitating at least one of receiving and

exchanging data between at least two wheel-braking modules associated with opposite lateral sides of the vehicle, wherein the first, second and third communication devices are discrete,

wherein the second communication device connects only a front wheel-braking module of a first lateral side of the vehicle to a rear wheel-braking module of a second lateral side of the vehicle, and the third communication device connects only a front wheel-braking module of the second lateral side of the vehicle to a rear wheel-braking module of the first lateral side of the vehicle.

Support for this amendment may be found in the Substitute Specification, e.g., at page 4, line 24 to page 5, line 2; and Figure 1.

In support of the rejection, the Examiner contends that the APA teaches a first communication device part (part of 14), a second communication device part (another part of 14) and a third communication device part (yet another part of 14) in Figure 4, which device parts are not discrete. (Office Action, pp. 7 to 9). The Examiner further contends that Kempf teaches discrete communication devices (cables) 100, 200 and 300 meeting at a junction, and that it would have been obvious to modify the non-discrete device parts of APA to be “discrete components, as taught by Kempf, in order to provide separate elements that facilitate system repair by enabling only a discrete component to be replaced.” However, this contention is simply unsupported by an suggestion in APA and Kempf. First, Kempf clearly does not in any way suggest that the three separate cables 100, 200 and 300 are provided to “facilitate system repair by enabling only a discrete component to be replaced”; instead, it is the manner of connection of the discrete cables 100, 200 and 300 which is the focus of Kempf, not the fact that three discrete cables provided. Second, APA clearly doesn’t suggest anything about the need to “facilitate system repair by enabling only a discrete component to be replaced.” More fundamentally, the idea of increasing the number of parts and complexity (and therefore the added cost) of the system solely to obtain the alleged benefit of enabling discrete component repair cannot be seen as an improvement, let alone serve as a motivation for modifying the applied prior art. At best, the Examiner’s asserted modification is based on pure speculation that is clearly unsupported by any actual suggestion in the applied prior art.

Independent of the above, the APA does not disclose, or suggest, the features that the second communication device connects only a front wheel-braking module of a first

lateral side of the vehicle to a rear wheel-braking module of a second lateral side of the vehicle, and the third communication device connects only a front wheel-braking module of the second lateral side of the vehicle to a rear wheel-braking module of the first lateral side of the vehicle. Nowhere does the APA indicate that a **second communication device connects only a front braking module of a first lateral side to a rear braking module of a second lateral side**. Similarly, nowhere does the APA indicate that a **third communication device connects only a front braking module of a second lateral side to a rear braking module of a first lateral side**. Instead, the APA merely indicates a single communication device 14 that connects to each braking module. In addition, Kempf also does not disclose or suggest these claimed features of claim 9. In this regard, Kempf merely indicates a cable junction. (Kempf, col. 2, lines 27 to 28; and Figure 1).

Even assuming that the Examiner's interpretation of the APA is correct (which is not conceded by the Applicants), the second communication device, as illustrated with Examiner's annotation on page 9 of the Office Action, connects one braking module to all other braking modules, but does not connect only a front braking module of a first lateral side to a rear braking module of a second lateral side. Similarly, the third communication device, as illustrated at page 9 of the Office Action, connects one braking module to all other braking modules, but does not connect only a front braking module of a second lateral side to a rear braking module of a first lateral side.

For at least the foregoing reasons, independent claim 9 and its dependent claims 13 to 16 are not rendered unpatentable by the combination of the APA and Kempf. It is therefore respectfully requested that the rejection be withdrawn.

Amended independent claim 10 recites the following:

10. A decentralized electrical braking system, comprising:
 - at least four sensors for sensing an actuation of a brake actuating device;
 - at least four wheel-braking modules, each wheel-braking module being assigned to a corresponding vehicle wheel and acquiring sensor data and controlling braking of the corresponding vehicle wheel;

at least one first communication device connecting all four wheel-braking modules to one another for exchange of data;
an electrical connecting device for connecting each sensor to at least one wheel-braking module; and
at least one of a second communication device and a third communication device for facilitating at least one of receiving and exchanging data between at least two wheel-braking modules associated with opposite lateral sides of the vehicle, wherein the first, second and third communication devices are discrete,
wherein the at least one of the second communication device and the third communication device is configured identically with respect to connections to the at least four wheel-braking modules as the first communication device, and each sensor is connected to two wheel-braking modules associated with opposite lateral sides of the vehicle, on the same axle.

Support for this amendment may be found in the Substitute Specification, e.g., at page 4, lines 15 to 23; and Figure 2.

In support of the rejection, the Examiner contends that APA modified by Kempf teaches that the at least one of the second communication device and the third communication device is configured identically to the first communication device **in the form of a cable/wire** in Figure 4. (Office Action, p. 9). However, the APA does not disclose, or suggest, the features that “the at least one of the second communication device and the third communication device is configured identically with respect to connections to the at least four wheel-braking modules as the first communication device, and each sensor is connected to two wheel-braking modules associated with opposite lateral sides of the vehicle, on the same axle.” Nowhere does the APA indicate that **at least one of the second communication device and the third communication device is configured identically with respect to connections to the at least four wheel-braking modules as the first communication device**; instead, the APA merely indicates a single communication device 14, but does not indicate either a second communication device or a third communication device, much less either a second or third communication device configured identically with respect to connections to the at least four wheel-braking modules as the first communication device. Further, nowhere does the APA indicate that **each sensor is connected to two wheel-braking modules associated with opposite lateral sides of the vehicle, on the same axle.** Instead, the APA merely indicates that each sensor S1-S4 is connected to a single

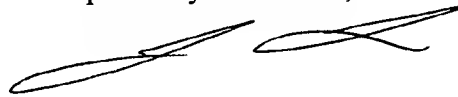
wheel-braking module. Moreover, Kempf also does not disclose or suggest these claimed features of claim 10. As set forth above, Kempf merely indicates a cable junction.

For at least the foregoing reasons, independent claim 10 and its dependent claim 12 are not rendered unpatentable by the combination of the APA and Kempf. It is therefore respectfully requested that the rejection be withdrawn.

Conclusion

Applicants respectfully submit that claims 9, 10, and 12-16 of the present application under consideration are now in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,

 (R. No. 36,197)

Dated: May 7, 2009

By: SONG LEE for Gerard Messina
Gerard A. Messina (Reg. No. 35,952)
KENYON & KENYON LLP
One Broadway
New York, New York 10004
(212) 425-7200

CUSTOMER NO. 26646